

Message

From: Kupchan, Simma [Kupchan.Simma@epa.gov]
Sent: 8/24/2018 2:38:48 PM
To: Wehling, Carrie [Wehling.Carrie@epa.gov]; Neugeboren, Steven [Neugeboren.Steven@epa.gov]; Wade, Alexis [Wade.Alexis@epa.gov]
Subject: RE: ACTION: Fwd: Draft FL MOA language on ESA_FULL-v2 without redline.docx
Attachments: Draft FL MOA language on ESA 8.23.18 WLO comments.docx

Thanks, Carrie and Steve. Steve's later version looks good to me, with Carrie's edit. I particularly like the deletion of the last few sentences of 2(b). Here is a draft that incorporates all of the edits and adds comments to the Region's clean draft. Please let me know if you have further comments. I will plan to send forward to David at noon unless I hear otherwise.

Also, I realized after entering comments that this draft anonymizes all edits to "author." I think that's fine for purposes of transmission to David, but if anyone makes any changes, please highlight them. Thanks!

Finally, Carrie, Ex. 5 AC/DP but would be able to respond more completely when I am back in the office with my hard copy of the regulations.

Thanks,

Thanks,

Simma Kupchan
EPA Office of General Counsel
Water Law Office
202-564-3105
WJC North #7426Q

From: Wehling, Carrie
Sent: Friday, August 24, 2018 8:43 AM
To: Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>; Wade, Alexis <Wade.Alexis@epa.gov>
Subject: RE: ACTION: Fwd: Draft FL MOA language on ESA_FULL-v2 without redline.docx

This seems easier to understand. My only comment is that the last sentence of 2.b.

Ex. 5 AC/DP

Ex. 5 AC/DP

Thanks.

Carrie

Caroline (Carrie) Wehling
Assistant General Counsel
Water Law Office
U.S. Environmental Protection Agency
Washington DC 20004
202-564-5492
wehling.carrie@epa.gov

From: Neugeboren, Steven

Sent: Thursday, August 23, 2018 6:29 PM

To: Kupchan, Simma <Kupchan.Simma@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Wade, Alexis <Wade.Alexis@epa.gov>

Subject: RE: ACTION: Fwd: Draft FL MOA language on ESA_FULL-v2 without redline.docx

Adding alexis.

I am attaching two documents. First are my comments on the version that Simma sent around 5 pm, which reflected her and carrie's comments. As you can see I have a number of comments and questions and I felt like some of the changes may not quite fit with the original structure and I found myself getting somewhat confused. I am sending those comments (version called sn comments simma plus carrie version 5 pm) *for your information* so you can see my comments and questions.

Rather than asking everyone to dive into that and to try to avoid taking too much of Simma's time in on her day off, I am also attaching a document called "sn comments on simma version 128 pm." That is what I'm suggesting that you all look at and work from. This version largely tracks the pre-existing paragraph 2.a. with some suggested tweaks to 2b that I think are consistent with some of our conversations. From my review of carrie's comments it seemed like she was suggesting language change was needed in paragraph 3 so I included that.

I think we should try to send forward to David tomorrow our comments which have redline/strikeout of the clean version we received from the region and includes comment bubbles for his (and ultimately Matt's and Dave's) purposes explaining why we are suggesting the changes we are. At another meeting today Dave asked if we were looking at it so I think he is going to wait to review it until he gets something back from OGC.

I'm in tomorrow and can assist.

From: Kupchan, Simma

Sent: Thursday, August 23, 2018 5:06 PM

To: Wehling, Carrie <Wehling.Carrie@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>

Subject: RE: ACTION: Fwd: Draft FL MOA language on ESA_FULL-v2 without redline.docx

Steve,

Here is the version that addresses Carrie's questions, that she was comfortable sending to you to review. Thanks in advance for any input.

I am heading out of the office, but will check in later tonight and will be doing some work tomorrow morning from home if I can be helpful in moving this along.

Thanks for your attention,

Simma Kupchan
EPA Office of General Counsel
Water Law Office
202-564-3105
WJC North #7426Q

From: Kupchan, Simma

Sent: Thursday, August 23, 2018 4:52 PM

To: Wehling, Carrie <Wehling.Carrie@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>

Subject: RE: ACTION: Fwd: Draft FL MOA language on ESA_FULL-v2 without redline.docx

Hi Carrie,

I've revised a bit in a way that

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Ex. 5 AC/DP

let me know what you think. Thanks!

Simma Kupchan
EPA Office of General Counsel
Water Law Office
202-564-3105
WJC North #7426Q

From: Wehling, Carrie
Sent: Thursday, August 23, 2018 4:03 PM
To: Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>
Subject: RE: ACTION: Fwd: Draft FL MOA language on ESA_FULL-v2 without redline.docx

Here are my comments. As someone who has not been very involved in these discussions,

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Ex. 5 AC/DP

Thanks.
Carrie

Caroline (Carrie) Wehling
Assistant General Counsel
Water Law Office
U.S. Environmental Protection Agency
Washington DC 20004
202-564-5492
wehling.carrie@epa.gov

From: Neugeboren, Steven
Sent: Thursday, August 23, 2018 1:51 PM
To: Kupchan, Simma <Kupchan.Simma@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>
Subject: RE: ACTION: Fwd: Draft FL MOA language on ESA_FULL-v2 without redline.docx

Thanks. I'll review after Carrie's.

Steve Neugeboren
Associate General Counsel for Water
U.S. EPA
1200 Pennsylvania Ave., NW
Washington, DC 20460
202 (564-5488)

From: Kupchan, Simma
Sent: Thursday, August 23, 2018 1:28 PM
To: Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>
Subject: FW: ACTION: Fwd: Draft FL MOA language on ESA_FULL-v2 without redline.docx

Steve and Carrie,

Attached is one suggested edit to the draft MOA, which would

Ex. 5 AC/DP

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Please let me know if you have questions or would like to discuss further.

Also, Matt asked us to provide by early next week a final answer as to

Ex. 5 AC/DP

Ex. 5 AC/DP

Thank you for your attention,

Simma Kupchan
EPA Office of General Counsel
Water Law Office
202-564-3105
WJC North #7426Q

From: Frazer, Brian

Sent: Thursday, August 23, 2018 8:55 AM

To: Goodin, John <Goodin.John@epa.gov>; Connors, Sandra <Connors.Sandra@epa.gov>; McDavit, Michael W. <Mcdavit.Michael@epa.gov>; Hurlid, Kathy <Hurlid.Kathy@epa.gov>

Cc: Campbell, Ann <Campbell.Ann@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>

Subject: RE: ACTION: Fwd: Draft FL MOA language on ESA_FULL-v2 without redline.docx

Will do. I'll call if there are any issues.

From: Goodin, John

Sent: Thursday, August 23, 2018 8:06 AM

To: Connors, Sandra <Connors.Sandra@epa.gov>; Frazer, Brian <Frazer.Brian@epa.gov>; McDavit, Michael W. <Mcdavit.Michael@epa.gov>; Hurlid, Kathy <Hurlid.Kathy@epa.gov>

Cc: Campbell, Ann <Campbell.Ann@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>

Subject: ACTION: Fwd: Draft FL MOA language on ESA_FULL-v2 without redline.docx

Brian- trust our folks can give this a look this morning. Give me a call if we identify something that you would propose to raise to Lee.

Thanks!

John

Sent from my iPhone

Begin forwarded message:

From: "Forsgren, Lee" <Forsgren.Lee@epa.gov>

Date: August 23, 2018 at 7:45:38 AM EDT

To: "Goodin, John" <Goodin.John@epa.gov>, "Frazer, Brian" <Frazer.Brian@epa.gov>, "Campbell, Ann"

<Campbell.Ann@epa.gov>

Cc: "Ross, David P" <ross.davidp@epa.gov>

Subject: Fwd: Draft FL MOA language on ESA_FULL-v2 without redline.docx

John

Please have the team look at this ASAP. If you have policy issues bring them to me immediately but they better be absolutely show stoppers.

Thanks,
Lee

Sent from my iPhone

Begin forwarded message:

From: "Glenn, Trey" <Glenn.Trey@epa.gov>
Date: August 22, 2018 at 9:42:38 PM EDT
To: "Leopold, Matt (OGC)" <Leopold.Matt@epa.gov>, "Forsgren, Lee" <Forsgren.Lee@epa.gov>, "Ross, David P" <ross.davidp@epa.gov>, "Fotouhi, David" <Fotouhi.David@epa.gov>
Cc: "Walker, Mary" <walker.mary@epa.gov>, "Ashbee, Blake" <ashbee.blake@epa.gov>, "Gettle, Jeaneanne" <Gettle.Jeaneanne@epa.gov>, "Palmer, Leif" <Palmer.Leif@epa.gov>
Subject: Fwd: Draft FL MOA language on ESA_FULL-v2 without redline.docx

David and Matt,

Can you please forward to your teams to review ASAP?

Thanks Trey

Begin forwarded message:

From: "Gettle, Jeaneanne" <Gettle.Jeaneanne@epa.gov>
Date: August 22, 2018 at 6:40:52 PM EDT
To: "Glenn, Trey" <Glenn.Trey@epa.gov>, "Walker, Mary" <walker.mary@epa.gov>, "Ashbee, Blake" <ashbee.blake@epa.gov>, "Jenkins, Brandi" <Jenkins.Brandi@epa.gov>, "Jones-Johnson, Shea" <Jones-Johnson.Shea@epa.gov>, "Marraccini, Davina" <Marraccini.Davina@epa.gov>
Cc: "Palmer, Leif" <Palmer.Leif@epa.gov>, "Rubini, Suzanne" <Rubini.Suzanne@epa.gov>, "Ghosh, Mita" <Ghosh.Mita@epa.gov>, "Mancusi-Ungaro, Philip" <Mancusi-Ungaro.Philip@epa.gov>, "Hicks, Matt" <Hicks.Matthew@epa.gov>, "Zapata, Cesar" <Zapata.Cesar@epa.gov>, "Allenbach, Becky" <Allenbach.Becky@epa.gov>, "Mcgill, Thomas" <Mcgill.Thomas@epa.gov>, "Calli, Rosemary" <Calli.Rosemary@epa.gov>, "Rigger, Don" <Rigger.Don@epa.gov>
Subject: Draft FL MOA language on ESA_FULL-v2 without redline.docx

Trey, Mary and Blake,

Following up on our discussions yesterday with FDEP on assumption of the CWA 404 program, please see the attached draft Memorandum of Agreement with revised language on the Endangered Species Act. I have included two versions – one with comments and one clean.

Both Leif and I have reviewed this version.

My thanks to the Tom, Rosemary, Phil and Matt for their quick work on this.

If you have any questions or would like additional information on the MOA, please let us know.

Thanks
jeanneanne